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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,768	03/23/2006	Yury Gogotsi	DXYC-0039 / 03-0501D	1617
23377 7590 09/23/2011 WOODCOCK WASHBURN LLP CIRA CENTRE, 12TH FLOOR 2929 ARCH STREET PHILADELPHIA, PA 19104-2891				
EXAMINER HENDRICKSON, STUART L				
ART UNIT		PAPER NUMBER		
1736				
NOTIFICATION DATE		DELIVERY MODE		
09/23/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

eoofficemonitor@woodcock.com

Office Action Summary**Application No.**

10/561,768

Applicant(s)

GOGOTSI ET AL.

Examiner

STUART HENDRICKSON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/2/11.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1, 2, 4-6, 8, 9, 11-15, 18 and 20 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1, 4-6, 8, 9, 11-15 and 20 is/are rejected.
- 8) ☒ Claim(s) 2 and 18 is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CIB) Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. The RCE is accepted.

Claims 1, 4-6, 8, 9, 11-15 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Mohun 3066099.

The reference teaches, especially in col. 6, 10, 35 and 36 heating SiC or ZrC with chlorine at various temperatures to make a microporous material; note also the discussion of 825 degrees and compare examples 42, 44 and 46. Note also experiment 3 versus 6. The claimed verbiage is not taught, however no differences are seen in the pore distribution since the process is the same.

Claims 1, 4-6, 8, 9, 11-15 and 20 are rejected under 35 U.S.C. 103(a) as obvious over Mohun.

In so far as Mohun does not teach the step of comparing the results of two different runs and determining the relative pore characteristics- and that this is required in the claims- then doing so is an obvious expedient to catalog results of experiments to determine the optimum heating regimen for the desired result.

Applicant's arguments filed through 3/2/11 have been fully considered but are not persuasive.

At the outset, the interview was a brief courtesy call to applicants that claim 1 of 2/4/11 required *all* the elements and that this was probably the result of an inadvertent typographical error. However, it is also noted that the prior Office action did not fully appreciate the entire teachings of Mohun and this is sincerely regretted. As to the arguments, the thrust is that the references did not appreciate the constancy of the pore characteristics and that this is unexpected. The former point is not relevant, as the experiments were the same and elucidation of an additional result does not impart patentability. As to the latter allegation, this is not proven; applicants should repeat the experiments of Mohun and characterize the pore characteristics. It

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should also be noted that the 103 rejection does not require that the reference be 'modified' and thus the conventional obviousness considerations/analyses are not necessarily present.

However, despite this it is believed that a proper rejection has been made.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.

/Stuart Hendrickson/
Primary examiner Art Unit 1736